

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NW ADMINISTRATORS, INC.,

Plaintiff,

v.

D.H.D. TRUCKING LLC,

Defendant.

CASE NO. C13-855RAJ

ORDER

This matter comes before the court on Plaintiff's motion for default judgment. Dkt. # 9. The record reflects that Defendant is in default. The court GRANTS the motion and directs the clerk to enter a default judgment as directed at the conclusion of this order.

The court's role in reviewing a motion for default judgment is not ministerial. It must accept all well-pleaded allegations of the complaint as fact, except facts related to the amount of damages. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987). Where those facts establish a defendant's liability, the court has discretion, not an obligation, to enter a default judgment. *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980); *Alan Neuman Productions, Inc. v. Albright*, 862 F.2d 1388, 1392 (9th Cir. 1988). The plaintiff must submit evidence supporting a claim for a particular sum of damages. *TeleVideo Sys.*, 826 F.2d at 917-18; *see also* Fed. R. Civ. P. 55(b)(2)(B). If the plaintiff cannot prove that the sum it seeks is "a liquidated sum or capable of

1 mathematical calculation,” the court must hold a hearing or otherwise ensure that the  
2 damage award is appropriate. *Davis v. Fendler*, 650 F.2d 1154, 1161 (9th Cir. 1981).

3 Plaintiff administers a union trust fund. Defendant was bound by a collective  
4 bargaining agreement to make contributions to the fund based on the hours its union  
5 employees worked. Defendant agreed to pay 20% liquidated damages for any delinquent  
6 contributions, agreed to pay interest equal to the Internal Revenue Service’s  
7 underpayment rate on any delinquent contributions, and agreed to pay attorney fees and  
8 costs arising from enforcement of the agreement.

9 Plaintiff’s evidence shows that Defendant made a series of late contribution  
10 payments early this year. Plaintiff has demonstrated that it is entitled to \$2,214.27 in  
11 liquidated damages as a result of those late payments, and \$58.99 in interest through  
12 October 4, 2013.

13 In addition, Plaintiff requests attorney fees and costs. Although Plaintiff’s  
14 evidence of attorney fees includes the hourly fees of non-attorneys, Plaintiff has  
15 established that its counsel does not incorporate non-attorney work into his hourly rate,  
16 and has established that counsel actually bills Plaintiff for the work of non-attorneys. In  
17 accordance with *Trustees of the Const. Indus. & Laborers Health & Welfare Trust v.*  
18 *Redland Ins. Co.*, 460 F.3d 1253, 1256-57 (9th Cir. 2006), the court awards the hourly  
19 fees of both Plaintiff’s counsel and counsel’s hourly-billing support staff. The court finds  
20 that Plaintiff’s evidence supports an attorney fee award of \$650.58 and costs of \$634.50.

21 The clerk shall enter default judgment in accordance with this order.

22 DATED this 29th day of October, 2013.

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26 The Honorable Richard A. Jones  
27 United States District Court Judge  
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